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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/889,895

07/24/2001

GERALD ANTON OFNER

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3043

466

7590

03/09/2005

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EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/889,895	OFNER, GERALD ANTON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lee Fineman	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 6-62, 64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) 6-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 62, 64 and 65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 January 2005 has been entered in which claim 1 was amended, claims 64-65 were added and claim 63 was cancelled. Claims 1, 6-62 and 64-65 are pending in which 6-61 are withdrawn.

#### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Austria on 30 November 1999. It is noted, however, that applicant has not filed a certified copy of the A 2016/99 application as required by 35 U.S.C. 119(b).

Receipt is acknowledged of Austria application A1994/99, filed 24 November 1999, submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

3. The drawing of fig. 12 was received on 7 January 2005. This drawing is acceptable.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneyama, U.S. Patent No. 5,959,769 in view of Austrian Patent Publication No. AT 000307 U1 (henceforth AT-307).

Yoneyama discloses a vision aid (fig. 7) having two lens systems which each comprise at least one objective lens (11L or 11R) and one eyepiece (12L or 12R) having an internal beam path therebetween (fig. 7), an autofocusing means (column 3, lines 9-10) which changes the focal length to adjust the lens systems according to the distance of the vision aid from the object, and at least one optical element (14L or 14R) structured and arranged to match parallaxes between the lens systems of the vision aid to the focal length (column 6, lines 52-56), said at least one optical element is movable along a path that crosses said internal beam path (column 6, line 52-column 7, line 42) and being structured and arranged to match parallaxes without changing distance between respective eyepieces (fig. 7). Yoneyama discloses the claimed invention except for a means for changing the magnification factor of the lens systems. AT-307 teaches a vision aid with two lens systems (fig. 1) with a means for changing the magnification factor of the lens systems (13, 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the means for changing the magnification factor of AT-307 to the system of Yoneyama to provide the viewer with more flexibility in viewing the image with a broader range of magnifications.

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6. Claims 1, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al., U.S. Patent No. 6,134,048 in view of AT-307.

Kato et al. disclose a vision aid (figs. 19A and 19B) in the form of telescopic spectacles with two lens systems which each comprise at least one objective lens (39 or 40) and one eyepiece (5 or 6) having an internal beam path therebetween (figs. 19A and 19B), a focusing means (13) which changes the focal length to adjust the lens systems according to the distance of the telescopic spectacle from the object (column 10, lines 33-40), and at least one optical element (41 or 42) that is distinct from said at least one objective lens and said eyepiece (it is distinct in at least so far as it is physically separated from the other lenses) positioned and arranged to match parallaxes between the lens systems of the vision aid to the focal length which has been set according to the distance of the telescopic spectacles from an object (column 10, lines 44-50), such that in each said lens system, said at least one optical element is movable along a path that crosses said internal beam path for changing an angle between external beam paths which run out of the respective lens systems toward the object; and wherein said at least one optical element is structured and arranged to match parallaxes without changing distance between respective eyepieces (figs. 19A and 19B). Kato et al. disclose the claimed invention except for the path being curved and a means for changing the magnification factor of the lens systems and the focusing means being an autofocus means. Kato et al. teaches in another embodiment (figs. 4A and 4b) wherein optical elements can be moved along a curved path (27 and 28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the curved path guide bars into this embodiment of Kato et al. to further prevent eye strain when looking at objects at close distances (see Kato, column 6, lines 20-28).

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AT-307 teaches telescopic spectacles with two lens systems (fig. 1) with a means for changing the magnification factor of the lens systems (13, 14) and an autofocusing means (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the means for changing the magnification factor of AT-307 to the system of Kato et al. to provide the viewer with more flexibility in viewing the image with a broader range of magnifications and to make the focusing mean of Kato et al. an autofocusing means as suggested by AT-307 to provide fast, accurate focusing of the object.

7. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. in view of AT-307 as applied to claim 1 above, and further in view of Kanda, U.S. Patent No. 4,886,340.

Kato et al. in view of AT-307 as applied to claim 1 above discloses the claimed invention except for wherein in each said lens system, the at least one optical element is rotatable along an axis perpendicular to said curved path so that said at least one optical element tilts when said at least one optical element is moved along said curved path. Kanda teaches a vision aid (fig. 5) in the form of telescopic spectacles with two lens systems with an optical element (5) that is movable along a curved path (from connector 13) and wherein said optical element is rotatable along an axis perpendicular to said curved path so that said at least one optical element tilts when said at least one optical element is moved along said curved path (column 7, lines 23-31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the optical element of Kato et al. in view of AT-307 rotatable along an axis perpendicular

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to said curved path for tilting as suggested by Kanda to provide additional degrees of freedom in designing/aligning the lens system.

### *Response to Arguments*

8. Applicant's arguments with respect to claims 1 and 62 have been considered but are moot in view of the new ground(s) of rejection.

9. It is noted by the Examiner that the drawing objections and 112 rejections made in the previous Office Action have been withdrawn due to amendment and persuasive arguments presented by the Applicant.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF  
March 4, 2005



MARK A. ROBINSON  
PRIMARY EXAMINER